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Before The  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of ) MM Docket No. 01-186  
 )  
Amendment of Section 73.202(b) ) RM-9976  
Table of Allotments )  
FM Broadcast Stations )  
(Honor, Bear Lake, Ludington )  
and Walhalla, Michigan )

To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**REPLY COMMENTS**  
**OF FORT BEND BROADCASTING COMPANY**

On October 1, 2001, Comments were filed in this proceeding in response to a "Notice of Proposed Rulemaking And Order To Show Cause ("NPR") released by the Federal Communications Commission ("Commission" or "FCC") on August 10, 2001. To the extent that any of these Comments were directed to or are relevant to Fort Bend Broadcasting Company ("Fort Bend"), licensee of Radio Station WCUZ(FM) (formerly "WSRQ(FM)"), that station, or Fort Bend's own rulemaking Proposal in Docket 00-69, Fort Bend, by its counsel, submits the following Reply Comments:

**I. The Comments of Lake Michigan Broadcasting and WCCW Radio Inc Are Duplicative of Comments Already Made and Considered in Docket 00-69 and Irrelevant to Any Further Consideration in The Instant Proceeding**

Lake Michigan responded to the Commission's Order to Show Cause as to why its channel in Ludington, Michigan, should not be changed from 292A to 254A to accommodate the changes proposed by Northern Radio of Michigan, Inc ("Northern") in this proceeding.

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In addition to its claim that such a change of equivalent channels would be 'disruptive', Lake Michigan also submits an Engineering Report by "Munn-Reese, Inc." alleging various technical problems with the allocation of channel 291A to Bear Lake as proposed by Northern in this Docket, which are essentially identical to the same arguments previously submitted by Northern Radio Network Corporation, licensee of WHAK(FM) in Rogers City, Michigan, in Docket 00-69, also accompanied by its own Report by "Munn-Reese, Inc." making the same arguments, and they should be of no further effect here than they were there.

Beyond that, in this proceeding, a Comment was also filed by WCCW Radio, Inc., licensee of Radio Station WCCW in Traverse City, Michigan, which, in addition to its own colorful language (e.g. the Fort Bend Proposal in Docket 00-69 is repeatedly referred to by WCCW as a "gambit"), seeks to now "join" Lake Michigan in its Opposition based upon the Munn-Reese engineering report filed in Docket 00-69. WCCW adds nothing to the argument, relying only upon ominous and baseless suggestions that "the Reallocation of Channel 261 is 'Suspect'" rather than any real argument of any factual or legal basis. Such "speculation and surmise" is a very thin veneer with which to hide the true concerns of WCCW as well as Lake Michigan, i.e. that neither wants any additional radio service anywhere to anyone in the State of Michigan for the simple and selfish reason that any other radio service would be seen as possible competition to their own existing radio service and they certainly do not want that.

The fact is that increased radio service is in the public's interest, if not in the private interest of WCCW or Lake Michigan. Their apparent concern that the existence of any alternative radio signal anywhere in their general area would result in a mass exodus of their existing listeners is not a sufficient basis upon which to deny such additional service. In fact, if the existing service is really that bad that a new station located anywhere in the area would be considered as such a threat, then it is really an argument in favor of that new service, an alternative service that is apparently sorely needed by the public. In any event, the arguments advanced here by Lake Michigan and now "joined in" by WCCW have already been made and given full consideration in Docket 00-69 and need not be further considered here.

Fort Bend made its own case for allocation of channel 291A as a substitute channel in Bear Lake in its own proceeding (Docket 00-69) and that stands on its own. In the instant Docket, Northern has made its own showing for the allocation of channel 291A to Bear Lake and had that not been made properly and persuasively, there would have been no basis for the issuance of the Notice of Proposed Rulemaking in this Docket. The arguments to the contrary by Lake Michigan and WCCW have no merit and should be given no further consideration.

**II. In the Event That This Docket is Decided Before The Decision In Docket 00-69, The Reimbursement Commitment of Northern Radio to Fort Bend Should Be Absolute As Required by FCC Policy.**

In the Comments filed by Northern Radio, it suggests that it will reimburse Fort Bend its expenses for the required move of its channel and site in this proceeding, but then claims that such reimbursement would be "subject to and limited by" a Consent Agreement entered into by the prior licensee of the Bear Lake station dated February 1, 2000. Although Fort Bend would have honored any such obligations that occurred after it assumed that contract effective December 4, 2000, when Fort Bend closed on purchase of the station, it is the position of Fort Bend that Northern itself acted in clear breach of the letter and spirit of that "Consent Agreement" when it filed an Opposition on September 8, 2000 in Docket 00-69 to a rulemaking proposal that had been filed jointly there by the very party that originally executed the Consent Agreement and Fort Bend, and which was totally consistent with the prior Agreement with Northern Radio to agree to allocate channel 291A to Bear Lake in place of its current channel. When Northern chose to undertake its own voluntary actions contrary to that Agreement, Fort Bend considered then, and considers now, the Consent Agreement breached and of no further force or effect.

Nonetheless, as an accommodation to Northern, Fort Bend will not contest moving its channel as proposed and requested by Northern in this Docket, provided however, that Northern Radio is required to make full reimbursement to Fort Bend for any and all

expenses required by that move, without regard to the broken Consent Agreement as referenced by Northern in its Comments, and that such agreement for full reimbursement as clearly set forth and required in long-standing FCC policy be a condition stated and accepted by Northern in any action by the FCC in this Docket.

Finally, as mentioned in Fort Bend's Response to Show Cause, the question of reimbursement by Northern Radio to anyone would become totally unnecessary and a moot point if the Commission first adopts Fort Bend's Proposal in Docket 00-69 before acting upon (or in concert with) its action on this Docket 01-186. In that event, station WCUZ would be relocated from Bear Lake to Bellaire and channel 291A allocated as a replacement channel to Bear Lake available to any interested party as well as to Fort Bend (which has already stated its own commitment to file an application for a new station on that channel in Bear Lake), and in that event, there would be no reimbursement requirement to Fort Bend or any other Bear Lake applicant at all.

### III. Conclusion

For the reasons set forth in Fort Bend's Response to Show Cause as well as the reasons set forth herein, Fort Bend respectfully submits that the public interest would best be served by first considering and adopting Fort Bend's request in Docket 00-69, and that the Commission then proceed with final consideration of Northern's proposal in Docket 01-86. Should the Commission decide otherwise and act upon the instant proposal by

Northern Radio in this Docket 01-186, then any such action should clearly stipulate and require as a part thereof, the full and unqualified reimbursement of Fort Bend for the channel and transmitter location changes as requested by Northern for radio station WCUZ(FM) in Bear lake.

Respectfully Submitted,

FORT BEND BROADCASTING COMPANY

by   
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October 9, 2001

CERTIFICATE OF SERVICE

I, Robert J. Buenzle, do hereby certify that copies of the foregoing "Reply Comments of Fort Bend Broadcasting" have been served by United States mail, postage prepaid this 9th day of October, 2001, upon the following:

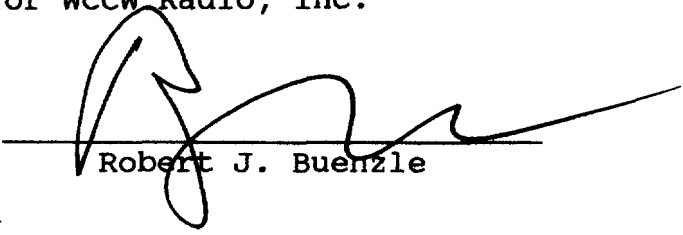
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